MONTANA LEGISLATIVE HISTORY

Chapter 417 1999

Bill H 840 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 20	✓ C	Hearing Date(s)	Mar 15	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	Feb 20	✓ C		Mar 15	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

CHAPTER NO. 412

HOUSE BILL NO. 840

INTRODUCED BY McBRIDE, PALMER, KESSLER, DOZIER, FAGG, COONEY, TEAGUE, WALDRON

IN THE HOUSE

February 16, 1979	Introduced and referred to Committee on Judiciary.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, do pass as amended.
February 22, 1979	Correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 16, 1979	Committee recommend bill be concurred in. Report adopted.
March 19, 1979	Motion pass consideration.
March 20, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in.

IN THE HOUSE

March 24, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 840

INTRODUCED BY McBride Palmer Lewis
Dave Kaegi Cooney Teague Walborn

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR JUSTICE'S COURT JURISDICTION OVER RESIDENTIAL LANDLORD-TENANT DISPUTES; INCREASE THE NOTICE REQUIREMENT FOR TERMINATION OF A TENANCY INVOLVING A MOBILE HOME; AND PROVIDE THAT UNLAWFUL DETAINER AND CERTAIN FORCIBLE DETAINER PROVISIONS DO NOT APPLY TO RESIDENTIAL LANDLORD-TENANT ARRANGEMENTS; AMENDING SECTIONS 3-10-302, 70-24-103, 70-24-441, AND 70-27-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-10-302, MCA, is amended to read:

"3-10-302. Jurisdiction over forcible entry, and unlawful detainer, and residential landlord-tenant disputes. The justices' courts have concurrent jurisdiction with the district courts within their respective counties in actions of forcible entry and unlawful detainer and in actions brought under Title 70, chapter 24."

Section 2. Section 70-24-103, MCA, is amended to read:

"70-24-103. General definitions. Subject to additional definitions contained in subsequent sections and unless the context otherwise requires, in this chapter the following definitions apply:

(1) "Action" includes recoupment, counterclaim, setoff suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Court" means the appropriate district court or the appropriate justice's court.

~~(2)~~(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by a person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit", in the case of a person who rents space in a mobile home park but does not rent the mobile home, means the space rented and not the mobile home itself.

~~(3)~~(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

~~(4)~~(5) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part and also means a manager of the premises who fails to disclose his managerial position.

~~(5)~~(6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

~~(6)~~(7) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of:

(a) the legal title to property; or

(b) the beneficial ownership and a right to present use and enjoyment of the premises, including a mortgagee in possession.

~~(7)~~(8) "Person" includes an individual or organization.

~~(8)~~(9) "Premises" means a dwelling unit and the structure of which it is a part, the facilities and appurtenances therein, and the grounds, areas, and facilities held out for the use of tenants generally or promised for the use of a tenant.

~~(9)~~(10) "Rent" means all payments to be made to the landlord under the rental agreement.

~~(10)~~(11) "Rental agreement" means all agreements, written or oral, and valid rules adopted under 70-24-311 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

~~(11)~~(12) "Roomer" means a person occupying a dwelling unit that does not include a toilet, a bathtub or a shower, a refrigerator, a stove, or a kitchen sink, all of which are provided by the landlord and one or more of these facilities are used in common by occupants in the structure.

~~(12)~~(13) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more

walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

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Section 3. Section 70-24-441, MCA, is amended to read:

"70-24-441. Termination by landlord or tenant. (1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least 7 days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by giving to the other at any time during the tenancy at least 30 days' notice in writing prior to the date designated in the notice for the termination of the tenancy.

(3) Notwithstanding subsections (1) and (2), the landlord or tenant may terminate a tenancy for occupancy of a mobile home or for rental of space in a mobile home park by giving to the other at any time during the tenancy at least 90 days' notice in writing prior to the date designated in the notice for the termination of the tenancy.

~~(3)~~(4) The tenancy terminates on the date designated

and without regard to the expiration of the period for which, by the terms of the tenancy, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day."

Section 4. Section 70-27-101, MCA, is amended to read:

"70-27-101. ~~Jurisdiction~~ Application and jurisdiction. (1) This chapter, except as it relates to forcible detainer as defined in 70-27-103(2) only and as it relates to forcible entry, does not apply to arrangements governed by chapter 24 of this title.

(2) The district court of the county in which the property or some part of it is situated shall have jurisdiction of proceedings under this chapter, provided that justices' courts, within their respective counties, shall have concurrent jurisdiction."

-End-

HB 840

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 839	provide that a cotenant who pays more than his share of property tax is entitled to contribution, etc.	2/16	Dussault	2/20	Moved to labor 2/19	
HB 840	justices court jurisdiction over landlord-tenant disputes	2/16	McBride	2/20	pass	2/20
HB 845	industrial revenue projects & financing, etc.	2/16	Ramirez	2/20	pass	2/20
HB 861	remove requirement-agencies after sunset be subject to review	2/17	Scully	2/20	pass	2/20
HB 865	mandatory minimum sentences not deferred - etc.	2/17	Manning	2/20	do not pass	2/20
HB 870	mental state - criminal offense may be inferred from acts, etc.	2/17	Keedy	2/20	pass	2/20

There were no questions and no discussion and the hearing closed on House Bill No. 836.

Representative Scully resumed the chairmanship of the meeting.

HOUSE BILL NO. 840: Representative McBride. This bill wc provide for justice court jurisdictic over residential landlord-tenant disputes.

BOB PYFER: This bill does three things. It would give jurisdiction to the Justic Court Act, on page 2, lines 4 and 5. Second, on page 4, lines 19 through 24, extends the notice period for termination without cause from 30 days to 90 days for mobile homes. Third, this chapter exce as it relates to forcible detainer and as it relates to forcible entry does not apply to Chapter 24. Chapter 27 means that it does not apply to residential situation. He discussed the chapter relat to forcible entry. Enforceable detainer is not covered by the landlord-tenant act. It would not apply to residential property bu only to commercial property.

BOB PALMER: Senator from Missoula. The landlord-tenant act passed last session and when we passed that act we had duplicate language. We have one area of conflict, the 90 days for mobile homes. They had disagreed about 30 days and 90 days.

GAIL STOLTZ: Human Resource Council. We support the bill.

DIANA BURGESS: Greater Billings Tenants Rights Organization. We are here in support of House Bill No. 840. This bill would amend so that it would take precedence over the current 1977 act. She compared the old law and the new if it should pass. This would make it more feasible for the JP Court to work out landlord-tenant disputes.

WALTER JACKICH: Montana Landlords. We are for this bill and the part dealing with the justice courts and the unlawful detainer act. We are against the mobile home part, and the provision for 30 days and we propose that that part be stricken.

JIM JENSON: The Justice of the Peace Court is written into this bill. We support this bill.

JERRY JOHNSON: MONTANA Coalition for Human Services. Mr. Johnson read a letter from the Covered Wagon Tenants Association. I would like to make the committ

aware of a problem. The practice of closed courts that gives priority. He discussed the low income section of Great Falls.

DEAN LUNTOCK: I would ask you to support House Bill No. 840, including the mobile home provision.

REPRESENTATIVE McBRIDE: This bill does show that there is coordination between the landlords and the tenants. I will leave the 30 or 90 days to the discretion of the committee.

Representative Teague asked about the 30 days and 90 days for clarification.

MR. JUKITCH: It shouldn't be a statutory thing.

There was more discussion and a few questions and the hearing closed on House Bill No. 840.

HOUSE BILL NO. 799: Representative Porter. This bill would create the office of district attorney to replace the office of county attorney in certain counties and would provide for funding and deputy district attorneys.

ROBERT DESCHAMPES: Missouls. This bill would affect only three counties. This bill does four things. He discussed the tenure and termination only for cause. It allows the contract with adjacent counties. It would allow counties to specialize. Third, It makes the office of the district attorney similar to the office of district judge, a non-partisan office. Vacancies shall be filled by appointment of the county commissioners. I think this bill could stand alone, but I would like to see all four.

FRED BOURDEAU: Cascade County Attorney. I have been there 20 years and the next person in seniority has been ther 2 years. We desperately need people. What we need also is money and we are simply asking that you continue the salary. I think it is significant that you can prioritize. This is one way you can extend professionalism.

TOM HONZEL: Trial Lawyers Association. One thing you should be aware of. Several years ago we did a study of the number of duties that the county attorney does and there were 200 things. He elaborated on this.

MR. PORTER: Harold Henser is in accord with what has been said.

MR. DAILY: What would the additional cost be?

HOUSE BILL NO. 833: Representative Conroy moved "do not pass". Representative Lory moved a substitute motion "do pass". The motion carried with Representatives Seifert and Conroy voting "no".

HOUSE BILL NO. 840: Representative Seifert moved to amend on page 4, line 23 by striking the new language. A straw vote carried with the vote unanimous. The bill will be amended from the floor.

Representative Lory moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL NO. 845: Representative Keyser moved "do pass". There was discussion that it should be amended. The motion carried to amend and Representative Conroy will notify Representative Ramirez so that he can do this from the floor.

The motion "do pass" carried with the vote unanimous.

HOUSE BILL NO. 748: Representative Keyser moved to reconsider the action taken, the day before. This is an almost identical bill to another sponsored by Representative Marks. The motion to reconsider carried with the vote unanimous.

Representative Lory moved to table this bill and pass the other out of committee. This is agreeable with both sponsors. The motion to table carried with the vote unanimous.

HOUSE BILL NO. 861: Representative Eudaily moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL NO. 865: Representative Daily moved "do pass". Representative Holmes moved to amend subsection (3) on page 8, and remove the reference to furlough. After lengthy discussion and Representative Keyser speaking against the motion, it failed.

Representative Holmes moved a substitute motion "do not pass". The motion carried with Representatives Curtiss, Pavlovich, Daily, Roth, Seifert and Teague voting "no".

HOUSE BILL NO. 870: Representative Conroy moved "do pass". The motion carried with Representatives Holmes, Kemmis and Eudaily voting "no".

Forty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

	BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
77.	HB-638	2/23/79	3/7/79	—						Tabled 3/2/79
78.	HB-652	2/23/79	3/8/79	3/13/79						
79	HB-701	2/23/79	3/16/79	3/13/79					3/16/79	
80.	HB-713	2/23/79	3/16/79	3/13/79					3/16/79	
81.	HB-749	2/23/79	3/12/79	3/14/79					3/14/79	
82	HB-774	2/23/79	3/13/79	3/21/79	[illegible]	[illegible]	[illegible]	Signed	3/17/79	3/26/79
83	HB-775	2/23/79	3/13/79	—						Tabled 3/13/79
84	HB-783	2/23/79	3/13/79	3/13/79					3/13/79	
85	HB 797	2/23/79	3/13/79	3/14/79					3/13/79	
86	HB 803	2/23/79	3/14/79	3/21/79					3/20/79	
87	HB 805	2/23/79	3/14/79	3/14/79				3/14/79		
88	HB-820	2/23/79	3/14/79	3/14/79				3/14/79		
89	HB-823	2/23/79	3/16/79	3/16/79	Two-thirds calendar				3/12/79	
90	HB-836	2/23/79	3/19/79	3/20/79					3/12/79	
91	HB 840	2/23/79	3/15/79	3/15/79				3/15/79		
92	HB 747	2/23/79	3/12/79	Tabled 3/13/79						

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 15, 1979

The sixtieth meeting of the Senate Judiciary Committee was called to order in room 331 of the capitol building by Senator Everett R. Lensink on the above date at 9:30 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 840:

This is an act to provide for justice's court jurisdiction over residential landlord-tenant disputes, etc. Representative Kathy McBridge from Silver Bow County gave an explanation of this bill and stated that this takes out unlawful detainer in landlord-tenant disputes.

Bob Pyfer, staff attorney for the Legislative Council, stated that they had no position on the bill and he stated exactly what the bill does.

Walter Jackovich, representing the Montana Landlords Association, gave a statement in support of this bill.

Gail Stoltz, representing the Montana Human Resources Development Council, stated that there was some problems in a couple areas of the state and asked that they change this and she stated they ended up with this bill hoping it would take care of the problems in Billings and Bozeman.

Bob Palmer, Missoula, stated that there was two years work in this act and it was worked on by both tenants and landlords. He stated that it was passed almost unanimously. He also said that this has support from all sides on this measure.

Jim Jensen, representing the Montana Magistrates Association, stated that they support this bill.

There were no further proponents and no opponents.

Senator Galt questioned what is unlawful detainer. Senator Towe answered that it was holding the property and not giving it up. He said that the tenant holds the property and does not give it up to the landlord and he can be subject to triple damages - that part was written into the landlord-tenants act.

There were a few questions concerning the bill by Senator Towe and the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 833:

This is an act to provide for the creation and conveyancing of solar easements. Representative McBride gave an explanation of this bill and stated that it deals with trying to gain accessability to the sunlight and she said that this becomes critical if you are investing money in solar heating. She said this provides for negotiation between neighbors and the recording of that contract between people is treated just as any other easement would be treated that was recorded. She stated that the easement is defined in terms of verticle and horizontal angles.

Ron Bogen, engineer for the Alternate Resource Association, gave a statement in support and said that the needs for this is pretty basic, stating that the sun does not shine from straight overhead all the time and all year. He said there is no proplem yet where people have built a large structure to block it off and this is to prevent that.

There were no further proponents.

Joe Crosswhite, representing Western Engineers' Trade Association, gave a statement opposing this bill and stated that what concerns him is that they have so many obstacles standing in the way of construction and many are just for the purpose of stopping the project.

Representative McBride gave a brief summary and the hearing on this bill was closed.

CONSIDERATION OF HOUSE BILL 475:

This is an act to amend section 31-1-110, MCA, to change the interest rate on judgments from 6% per annum to 10% per annum. Representative Kemmis gave a statement and explained this bill.

Mike Meloy, representing the Montana Trial Lawyers' Association, stated that they support this bill and he said the section that provides 6 per cent was enacted in 1933. He said that the house considered the possibility of making this thing a floating rate geared to the present interest rates on loans. The problem is that that rate is keyed to 90 day paper and is a maximum. He testified that if you keyed it to that not only would have have a difference in rates on any given day, but you might end up with a 14 or 15 per cent rate and that is too high.

statement. He commented that you give them a chance to litigate the question of whether a certain analysis was adequate and he felt that it had problems beyond this.

Senator Towe said that that may be legitimate and it would be easy to challenge on that basis and he suggested that they make it clear that a rule cannot be challenged. Senator Towe withdrew his motion.

Senator Towe moved that the bill be amended on page 2, line 9, following line 9, insert :"(5) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section."

Senator Towe moved that this bill be concurred in, as amended. The motion carried unanimously.

Senator Turnage suggested that the minutes show that the agencies and administrative code commission do not abuse this so that it is not used too often.

DISPOSITION OF HOUSE BILL 840:

Senator Towe moved that this bill be concurred in. The motion carried with six voting yes and four voting no. See roll call vote.

DISPOSITION OF HOUSE BILL 833:

Senator Towe moved that the bill be amended on line 24, subsection (3), by striking this in its entirety.

Senator Turnage said you are trying to clutter up a well-established property law. Senator O'Hara made a substitute motion that this be not concurred in. The vote was five to five. See roll call vote.

Senator Van Valkenburg said that this needs to be provided for by law. Senator Lensink wondered if this can be purchased right now and suggested that someone should do some research on it and wondered what the supreme court of MOntana would say.

SENATE _____ COMMITTEE

BILL _____ VISITORS' REGISTER DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OP
Mike Anne	Agriculture	438		
Jon Sesso Etc	Mt. Farmers Union ETC	438	XX	
Ronald Tallon	Mont. Chamber of Commerce	438	X	
Peter Jackson	Wilderness Mont.	438	X	
B.J.P.I.		840		O
Peter F. Jackich	Montana Logging Assoc.	840	X	
Phil D. Stock	Mt. Association of Counties	840	X	
Daniel Kemmis	House District 94	475	X	
Willie Mercy	Mt. Trial Lawyers	475	X	
S. Keith Anderson	Montana Taxpayers Assn.	438	X	
Edward Hor		438	X	
Ken Keller	Senate Dist 1			
Bruce Lee	Montana Hospital Assn	438	X	
CHAD SMITH	Mont Hospital Assn	438	X	
Jim Jensen	Mt. MAGISTRATES ASS'N.	840	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE COMMITTEE JUDICIARY

Date 3/15 Bill No. 200 Time 11:50

NAME	YES	NO
Lensink, Everett R., Chr. (R)	✓	
Olson, S. A., V. Chr. (R)		✓
Turnage, Jean A. (R)		✓
O'Hara, Jesse A. (R)	✓	
Anderson, Mike (R)		✓
Galt, Jack E. (R)		✓
Towe, Thomas E. (D)	✓	
Brown, Steve (D)	✓	
Van Valkenburg, Fred (D)	✓	
Healy, John E. (Jack) (D)	✓	
	6	4

Secretary Chairman

Motion: Do Concurred as

(include enough information on motion--put with yellow copy of committee report.)

Date 2/15/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

SENATE

STANDING COMMITTEE REPORT

March 11, 19 72

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 340

McBride (Rowe)

Respectfully report as follows: That House Bill No. 340

BE CONCURRED IN

DO PASS

Everett R. Lensink Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 840

INTRODUCED BY McBRIDE, PALMER, KESSLER, DOZIER, FAGG, COONEY, TEAGUE, WALDRON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR JUSTICE'S COURT JURISDICTION OVER RESIDENTIAL LANDLORD-TENANT DISPUTES; ~~INCREASE THE NOTICE REQUIREMENT FOR TERMINATION OF A TENANCY INVOLVING A MOBILE HOME~~; AND PROVIDE THAT UNLAWFUL DETAINER AND CERTAIN FORCIBLE DETAINER PROVISIONS DO NOT APPLY TO RESIDENTIAL LANDLORD-TENANT ARRANGEMENTS; AMENDING SECTIONS 3-10-302, 70-24-103, ~~70-24-441~~, AND 70-27-101, MCA."

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REFERENCE BILL

severally, in whom is vested all or part of:

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-End-